

118TH CONGRESS
1ST SESSION

S. 773

To exempt from the Lacey Act and the Lacey Act Amendments of 1981 certain water transfers between any of the States of Texas, Arkansas, and Louisiana, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 9, 2023

Mr. CRUZ introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To exempt from the Lacey Act and the Lacey Act Amendments of 1981 certain water transfers between any of the States of Texas, Arkansas, and Louisiana, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Public Water Supply
5 Invasive Species Compliance Act of 2023”.

1 **SEC. 2. EXEMPTION OF CERTAIN WATER TRANSFERS FROM**
2 **THE LACEY ACT AND THE LACEY ACT AMEND-**
3 **MENTS OF 1981.**

4 (a) DEFINITIONS.—In this section:

5 (1) COVERED WATER TRANSFER.—The term
6 “covered water transfer” means a transfer of water
7 containing a prohibited species between public water
8 supplies located on, along, or across the State
9 boundaries between any of the States of Texas, Ar-
10 kansas, and Louisiana.

11 (2) PROHIBITED SPECIES.—The term “prohib-
12 ited species” means any species—

13 (A) the shipment of which is otherwise
14 prohibited by section 42 of title 18, United
15 States Code (commonly known as the “Lacey
16 Act”); or

17 (B) the transfer of which is otherwise pro-
18 hibited by the Lacey Act Amendments of 1981
19 (16 U.S.C. 3371 et seq.).

20 (3) PUBLIC WATER SUPPLY.—The term “public
21 water supply” means any body of water, including
22 any river, lake, or stream, the water of which is
23 available or made available to the public.

24 (b) EXEMPTION.—Section 42 of title 18, United
25 States Code (commonly known as the “Lacey Act”), and
26 the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et

1 seq.) shall not apply with respect to any covered water
 2 transfer, if—

3 (1)(A) all prohibited species in the water trans-
 4 ferred are located in both of the public water sup-
 5 plies between which the water is transferred;

6 (B) the water is transferred directly between
 7 those public water supplies; and

8 (C) the water is subject to effective mitigation
 9 measures that are reviewed and approved by the ap-
 10 propriate State agency of the State to which the
 11 water is being transferred, including—

12 (i) chemically treating the water for sus-
 13 pected or known prohibited species;

14 (ii) limiting transfers to certain times;

15 (iii) withdrawing water only from certain
 16 depths;

17 (iv) filtration;

18 (v) enhanced monitoring; and

19 (vi) other mitigation measures; or

20 (2) the water is transferred in a closed convey-
 21 ance system directly to treatment facilities where all
 22 prohibited species contained in the water transferred
 23 will be extirpated.

24 (c) NOTIFICATION.—

1 (1) IN GENERAL.—Before the first covered
2 water transfer described in subsection (b)(1) occurs
3 in a calendar year and subject to paragraph (2), the
4 controlling authority of the public water supply from
5 which the water is to be transferred (referred to in
6 this subsection as the “donor public water supply”)
7 shall submit to the controlling authority of the pub-
8 lic water supply to which the water is to be trans-
9 ferred (referred to in this subsection as the “recipi-
10 ent public water supply”) a written notification that
11 includes—

12 (A) the expected dates of the covered water
13 transfer;

14 (B) the volume of water to be transferred,
15 which may include a range of possible volumes
16 of water that may be transferred;

17 (C) a list of known prohibited species that
18 are contained in the donor public water supply;

19 (D) a certification that the known prohib-
20 ited species described in subparagraph (C) are
21 present in both the donor public water supply
22 and the recipient public water supply; and

23 (E) a notice of other known species
24 present in the donor public water supply that
25 may be of concern to the controlling authority

1 of the recipient public water supply, including
2 species that are not prohibited by the laws re-
3 ferred to in subsection (b).

4 (2) ADDITIONAL NOTIFICATION.—In addition to
5 the notification required under paragraph (1), the
6 controlling authority of the donor public water sup-
7 ply shall provide to the controlling authority of the
8 recipient public water supply a notification described
9 in that paragraph if the controlling authority of the
10 donor public water supply discovers a new prohibited
11 species in the donor public water supply.

12 (d) COSTS OF MITIGATION MEASURES.—The costs of
13 the mitigation measures described in subparagraph (C) of
14 subsection (b)(1) for water subject to a covered water
15 transfer described in that subsection shall be borne by the
16 entity that sells the water for financial gain.

○